

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and  
SOUND UNITED, LLC,

Defendants.

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MASIMO CORPORATION,

Counter-Claimant,

v.

APPLE INC.,

Counter-Defendant.

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APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and  
SOUND UNITED, LLC,

Defendants.

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MASIMO CORPORATION and  
CERCACOR LABORATORIES, INC.,

Counter-Claimants,

v.

APPLE INC.,

Counter-Defendant.

C.A. No. 22-1377-MN-JLH

**JURY TRIAL DEMANDED**

C.A. No. 22-1378-MN-JLH

**JURY TRIAL DEMANDED**

**DECLARATION OF JORDAN N. MALZ IN SUPPORT OF  
PLAINTIFF APPLE INC.'S ANSWERING BRIEF IN OPPOSITION TO  
DEFENDANTS' MOTION TO CONSOLIDATE**

I, Jordan N. Malz, declare and state as follows:

1. I am an attorney and partner at the law firm Desmarais LLP, counsel of record for Plaintiff Apple Inc. (“Apple”) in the above-captioned case. I submit this declaration based on personal knowledge, and if called upon as a witness, could competently testify to the truth of each statement herein.

2. Attached as **Exhibit 1** is a true and correct copy of the Order issued by Judge Matthew F. Kennelly on January 24, 2023, D.I. 83 in *10X Genomics, Inc. v. Nanostring Techs., Inc.*, No. 22-cv-261-MFK (D. Del. Jan. 24, 2023).

3. Attached as **Exhibit 2** is a true and correct copy of the Memorandum Opinion and Order issued by Judge Noel L. Hillman on August 30, 2019, D.I. 134 in *GI Sportz, Inc. v. Valken, Inc.*, No. 1:16-cv-07170-NLH-KMW (D.N.J. Aug. 30, 2019).

4. Attached as **Exhibit 3** is a true and correct copy of Masimo’s proposed consolidated schedule, received via email from Masimo’s counsel on January 11, 2023.

5. Attached as **Exhibit 4** is a true and correct copy of a news article, *Sound United Officially Rebrands as Masimo Consumer*, authored by Robert Archer and published by *CE Pro* on March 8, 2023, also available at <https://www.cepro.com/news/sound-united-rebrands-as-masimo-consumer/> (last visited Mar. 10, 2023).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 10, 2023

By: /s/ Jordan N. Malz  
Jordan N. Malz

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